

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF: ) CASE NO. BK05-43546  
 )  
SHADE, INC., )  
 ) CH. 7  
Debtor(s). )  
 ) Filing No. 147, 148

ORDER

Hearing was held in Omaha, Nebraska, on August 14, 2006, regarding Filing No. 147, Motion to Sell Free and Clear, filed by Joseph H. Badami, trustee, and Filing No. 148, Resistance, filed by Jack L. Irwin. W. Eric Wood appeared for the debtor, Terry Barber appeared for Jack L. Irwin, and James Overcash appeared for the Chapter 7 trustee.

The Chapter 7 trustee has filed a motion to sell certain personal property owned by the estate free and clear of liens. Originally, he filed such a motion because he had an offer of \$50,000 from the sole shareholder of the debtor. That motion was resisted by Jack Irwin, a creditor and director, who suggested the property was worth significantly more and offered to pay \$52,000. Thereafter, the trustee received an offer for \$60,000. Finally, the trustee decided to auction the property.

The trustee has auctioned the property and has received a good faith deposit of the purchase price of approximately \$181,000. Jack Irwin has objected to the sale, once again suggesting the price is insufficient, although he bid at the sale and was outbid by the eventual successful bidder. He has mentioned numerous other reasons for his objection, but the underlying reason for the objection is that he thinks the case should be dismissed so that he can deal with the debtor and the property of the debtor outside the confines of the bankruptcy system.

Mr. Irwin has a pending motion to dismiss which will be dealt with by separate order. In it, among other things, he suggests that the case should be dismissed for cause because the corporation did not have a proper resolution authorizing it to file the bankruptcy.

The trustee takes the position that this case has been pending for almost a year, the sale of the property has now brought value to the estate, the purchaser is responsible for cleanup of any hazardous waste, and the sale price was fairly arrived at by an open auction.

The trustee's motion to sell free and clear of liens and to confirm the sale for approximately \$181,000 is granted.

SO ORDERED.

DATED this 24<sup>th</sup> day of August 2006.

BY THE COURT:

/s/ Timothy J. Mahoney  
Chief Judge

Notice given by the Court to:

W. Eric Wood  
Terry Barber  
\*Joseph Badami & James Overcash  
U.S. Trustee

Movant(\*) is responsible for giving notice of this order to all other parties not listed above if required by rule or statute.